

# COURT DENIES ALL OF SHAW MOTIONS



—Associated Press photo.  
LEAVING the Criminal District Courts building Monday are Clay L. Shaw (right) and his attorney Edward Wegmann. Shaw, accused by District Attorney Jim Garrison of plotting to assassinate President John F. Kennedy, lost a legal effort to have Tuesday's preliminary hearing conducted by one judge instead of three.

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Preliminary Hearing Set  
for 10:30 a. m. Today  
3/14/67

By CLARENCE DOUCET

The special three-judge court that will preside at Tuesday's preliminary hearing for Clay L. Shaw denied three motions filed by his attorneys on Monday, including one questioning the legality of the three-man panel.

The preliminary hearing will begin at 10:30 a.m. Tuesday.

The three motions filed by Shaw's attorneys on Monday were:

—That the order of the court in setting up the three-judge panel to handle the preliminary hearing be set aside and quashed.

—That Shaw be permitted to inspect and reclaim property seized from his home on March 1, the day he was arrested.

—The defense be permitted to use its own court reporters so it would have a readily available transcript of the hearing.

In denying the motions, Judge Bernard J. Bagert, presiding member of the panel, did announce some technical mechanics concerning how the three judges would conduct themselves regarding rulings and judgments.

The questions had been raised by Shaw's attorneys.

**DENIES INVOLVEMENT**

Shaw was arrested March 1 by District Attorney Jim Garrison's office and booked with participating in an alleged conspiracy to murder President John F. Kennedy. Free on a \$10,000 bond, he has denied any involvement in a conspiracy.

Others named thus far as being co-conspirators have been Lee Harvey Oswald, named by the Warren Commission as the lone assassin of Kennedy, and David W. Ferrie, a free lance pilot who died last Feb. 22. Oswald is also dead, having been killed by Jack Ruby two days after Kennedy was murdered. Ruby has since died of cancer.

The two other judges sitting

with Judge Bagert are Judge Matthew S. Braniff and Judge Malcolm V. O'Hara.

In a separate development in the DA's probe Monday, Raymon Cummings, the Dallas taxicab driver who claims he drove Oswald, Ferrie and a third man to a Dallas nightclub operated by Jack Ruby, arrived in New Orleans and went to Garrison's office.

At the airport, Cummings and his attorney were met by two

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uniformed policemen and two men thought to be from Garrison's office.

#### REPORTS THREATS

Cummings said he had received anonymous telephone threats Friday and Saturday warning him that if he went to New Orleans he would "get it."

The callers warned him he would not return to Dallas; "You're going to get it in New Orleans."

He said he was not particularly worried, adding: "They're possibly pranks."

His lawyer, Frank Wright, said he would ask for police protection here. Cummings appeared briefly at the DA's office Monday morning and returned later. He said he returned at the request of first assistant DA Charles Ray Ward, but would make no further comment.

Judge Bagert said Monday that he, as presiding judge, will issue all rulings during the preliminary hearing; that he will consult with his associate judges; that decisions will be reached by a majority vote, and that the court will not entertain any individual queries as to how the judges voted on any matter.

Judge Bagert made his announcement following a short recess after the defense attor-



Photo by The Times-Picayune.  
RAYMON CUMMINGS

neys had filed their motion to quash and set aside the order of the court.

#### DEFENSE LISTS REASONS

Defense listed nine reasons why it felt the three-judge court should be set aside:

—It is without precedent in Louisiana or New Orleans.

—It is without foundation or authorization in law.

—It is tantamount to a trial by jury and as such an abridgement of Shaw's constitutional guarantee to have the case decided by the judge regularly assigned.

—It is a deprivation of his right to allotment as called for by law.

—There are no promulgated rules of court or law to control or govern the operation of the

three-man panel and existing guidelines, if they exist, have not been given the defendant up until the time of Monday's hearing.

—If the case is a magistrate hearing, the action is unprecedented.

—If this action is taken in the instant cause, it must apply equally to all future defendants in magistrate or preliminary hearings.

—Shaw is entitled to "voir dire" examination of any jury which is to try any phase of the proceeding.

#### LEGALITY CHALLENGE

—Shaw pleads the unconstitutionality of Rule II of the Criminal District Court rules, alleging "that the interpretation

of said rule so as to permit a trial on an issue of fact by more than one presiding judge is in direct violation" of state and federal constitutions.

The second motion presented, seeking the return of certain of Shaw's property that was taken when his house was searched the night of his arrest, brought a few exchanges between Shaw's attorney and the assistant DA's.

Representing Shaw were Edward F. Wegmann, William Wegmann and F. Irvin Dymond. Dymond argued that while the prosecution was certainly entitled to seize evidence pertaining to the case there is no basis in law for an "overall seizure" of all property.

Assistant DA James Alcock, arguing for the state, maintains during the preliminary hearing Tuesday it could develop that some of the property confiscated, which on Monday was not pertinent, might become pertinent. Also representing the state was another Asst. DA, Alvin V. Oser.

He told the court that if the motion was granted it would permit the defense to "go in the back door when it was not allowed in the front door."

#### MOTION ARGUED

Dymond maintained that the state has had in excess of 10 days to examine the evidence and that in that time it should have decided what is pertinent and what is not.

At one point, Dymond maintained that the search warrant, in effect, left Shaw pen-

unless because part of the confiscated property included some \$30,000 worth of homestead stock.

Judge Bagert said duplicate certificates could be obtained and said he was denying the motion because the court "can't anticipate what the state's case is" and what confiscated property might be relevant to the state's case.

In the third motion, asking that defense be permitted to have its own reporters to obtain a transcript of trial questioning, Dymond said it was "very essential to have a record of the testimony" and that defense felt its request was not unreasonable.

Noting that defense was aware that an official court reporter would be present, the motion asserted it would be impossible for defense to get a transcript of the testimony

"until well after the conclusion" of the hearing while if defense was granted the motion it could have transcripts on a day-to-day basis, "or possibly a transcription of the morning notes during the afternoon session."

Defense said it was requesting this "particularly for the reason that your defendant has not been informed as to the date of the alleged conspiracy, the names of the alleged conspirators, the names of the witnesses who will be called on behalf of the state, nor any of the information which was requested in the application for particulars."

#### AUTHORITY QUESTIONED

Judge Bagert asked Dymond if there was any authority in law for which defense could make this request and Dymond said he knew of none.

The judge said the motion was "without merit," asserting it would contravert the established guidelines, adding that while it is not the purpose of the preliminary hearing to decide guilt or innocence, but only to determine if there is probable cause, that two stenographers would be working the case on a full time basis.

He told Dymond that if during the trial either the state or defense wants to hear a repeat of any testimony, the case will



—Photo by The Times-Picayune.  
ASSISTANT DISTRICT ATTORNEYS Alvin V. Oser (left) and James L. Alcock review papers before appearing in court Monday to answer defense motions filed by attorneys for Clay L. Shaw. A preliminary hearing is scheduled here Tuesday for Shaw accused of conspiring to assassinate President John F. Kennedy.

"No, no, denied," answered Judge Bagert.

The small courtroom was packed during Monday's activity nearly 45 minutes before the session got under way, about 11:45 a. m.

The session ended a few minutes past 1 p. m.

Tuesday's preliminary hearing will decide if Garrison's office has enough evidence to warrant bringing Shaw to trial. Garrison, who did not appear at Monday's courtroom activity, is expected to handle the prosecution at the Tuesday hearing.

#### SHAW CALM

Shaw, 54-year-old silver-haired former managing director of International Trade Mart, continued to appear calm at the Monday hearing on motions.

He was seated with his attorneys before the judges and during the recess he asked deputies if he was permitted to smoke in the courtroom. He stood in a group with his attorneys, sometimes contributing to the conversation but mostly just listening. From time to time he smiled, but generally appeared intent on the conversation as well as the proceedings.

Following the hearing on the motions, he left the Criminal District Court Building with his

be stopped while the testimony is re-read.

"Page by page?" asked Dymond.

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attorneys and several deputies. Once outside the building, leaving through the main entrance facing Tulane he was surrounded by newsmen and photographers who grouped around him down the steps, across Tulane ave., and into a parking lot across the street, where Shaw and his attorneys entered

an automobile and drove off.

#### SENDS FOR NEWSMEN

Criminal Sheriff Louis Heyd announced Monday that some 74 seats in the courtroom of Judge Bagert have been reserved for the press at Tuesday's hearing. He said that in addition, some 50 alternate newsmen have been certified. The press corps will represent newspapers

throughout the world, he added.

Some 30 seats will be available for the general public, which have been filled. There will also be 24 additional seats in the two jury boxes which will be used by persons such as Garrison's investigators, Dr. Nicholas Chetta, the Orleans Parish coroner, Mrs. Garrison, and others.